

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES
INTERNATIONAL BUSINESS REPLY SERVICE COMPETITIVE
CONTRACT 3 (MC2011-21)
NEGOTIATED SERVICE AGREEMENT

Docket No.
CP2018-283

**NOTICE OF THE UNITED STATES POSTAL SERVICE OF TERMINATION OF
AND ACTIVATION OF THE CONTINGENCY RATES SET FORTH IN AN
INTERNATIONAL BUSINESS REPLY SERVICE COMPETITIVE CONTRACT 3
NEGOTIATED SERVICE AGREEMENT**

(June 5, 2020)

In Order No. 4767, the Postal Regulatory Commission (Commission) directed the United States Postal Service (Postal Service) to provide notice if the International Business Reply Service (IBRS) 3 contract that is the subject of this docket (Agreement) is terminated prior to its scheduled expiration date.¹ The Agreement is currently scheduled to expire on August 31, 2020.² In accordance with Order No. 4767, the Postal Service hereby provides notice that the Agreement will be terminated on June 30, 2020.

In addition, the Postal Service hereby gives notice of the activation of the contingency rates set forth in Article 27 of the Agreement, effective upon the expiration of the Agreement on June 30, 2020.

¹ PRC Order No. 4767, Order Approving Additional International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, Docket No. CP2018-283, August 20, 2018, at 6.

² United States Postal Service Response to Order No. 4767 concerning Effective Date of an International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, Docket No. CP2018-283, August 21, 2018.

The Postal Service acknowledges that in Order No. 4767, in which the Commission included the Agreement in the IBRS Contract 3 product,³ the Commission stated the following.

Rate changes. The Agreement, like previous IBRS competitive agreements, includes clauses addressing cost increases and contingent pricing that allow the Postal Service flexibility to change rates without entering into a new agreement. The Commission addressed the implications of contingency pricing clauses in Order No. 178 and concluded that the Postal Service must file notice of rate changes occurring under such clauses pursuant to 39 C.F.R. § 3015.5 and provide a minimum of 15 days' notice.⁴

However, Order No. 178 concerned an IBRS 1 contract that included an Article 16 concerning Contingency Rates that stated the following.

In the event that either the Mailer or the USPS terminates this Agreement under the terms of Article 13 before the normal expiration date, or in the event that the Mailer and the USPS do not enter into a customized agreement upon the expiration of this current Agreement, the Mailer shall pay postage for any Qualifying Mail the USPS receives after the agreed upon termination date or expiration date, as appropriate, at a price of [REDACTED] for a period of six (6) months. This price shall have no bearing on the price the USPS shall charge in the event that the Mailer and the USPS do enter into a customized agreement upon the expiration of this current Agreement. In the event that the Mailer and the USPS have not entered into a new customized Agreement within six (6) months of the termination or expiration of this current Agreement, the USPS shall charge the Mailer a price to be determined at its sole discretion for those items received after the six (6) month date.⁵

³ PRC Order No. 4767, at 6.

⁴ *Id.* at 5.

⁵ Response of the United States Postal Service to Order No. 164, and Notice of Filing Redacted Contract and Other Requested Materials, Docket Nos. MC2009-14 and CP2009-20, January 12, 2009, at Attachment 1, Article 16.

Article 16 from the IBRS 1 contract quoted above mentions the USPS determining contingency rates. In contrast, Article 27 of the Agreement specifically sets forth the contingency rates to go into effect upon expiration of the Agreement.⁶

When the Commission reviewed the rates and accompanying financial workpapers filed by the Postal Service in this docket, the Commission also reviewed the contingency rates set forth in Article 27 of the Agreement. Thus, by this notice, the Postal Service furnishes notice to the Commission of the activation of the contingency rates set forth in Article 27 of the Agreement.

Respectfully submitted,

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⁶ Article 27 of the Agreement states that "In the event that either the Mailer or the USPS terminates this Agreement under the terms of Article 12 or Article 13 before the expiration date set forth in Article 11, or in the event that the Mailer and the USPS do not enter into a customized agreement concerning International Business Reply Service from Canada upon the expiration of this current Agreement, the Mailer shall pay postage for any International Business Reply Service Qualifying Mail the USPS receives after the agreed upon termination date or expiration date, as appropriate, at a price that is twice the price listed in Annex 1." See Notice of the United States Postal Service Filing of a Functionally Equivalent International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, Docket No. CP2018-283, August 9, 2018, at Attachment 1, Article 27.